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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

WILLIAM H. PAYNE

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Plaintiff,

Robert M. Marshall
CLERK-SANTA FE

vs.

CIVIL NO. 97-0266 SC/DJS

NATIONAL SECURITY AGENCY,

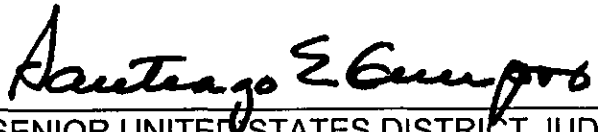
Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendant's Motion for Summary Judgment on Plaintiff's second Freedom of Information Act (FOIA) request, and Plaintiff's Opposition thereto. The Court, having ordered Defendant to provide it with a classified declaration by 26 June 1998, reviewed that declaration *ex parte, in camera* on October 12, 1999. Having conducted a thorough review of the entire record in this case, including the June 16, 1998 classified declaration of Gary Winch, Director of Policy for the National Security Agency, the Court finds: 1) that Mr. Winch's prior public declaration explained as fully as possible, without disclosing the very information sought to be protected, the Agency's reason for neither confirming nor denying the existence or non-existence of Iranian or Libyan messages and translations between January 1, 1980 and June 10, 1996; and 2) that in his June 26, 1998 classified declaration Mr. Winch clearly and fully explained the specific harm to the national security which would occur if the Agency were to admit or deny the existence of the requested records. Accordingly, the Court finds that the Agency has properly asserted the First and Third FOIA Exemptions to protect a currently and properly classified fact.

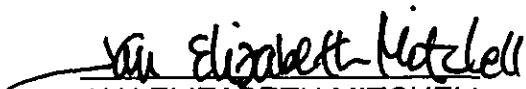
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THEREFORE, IT IS HEREBY ORDERED that the Defendant's Motion for
Summary Judgment is granted in full.



SENIOR UNITED STATES DISTRICT JUDGE

Submitted by:



JAN ELIZABETH MITCHELL
Assistant U. S. Attorney